

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:08cv357**

**DISH NETWORK L.L.C.; EHOSTAR
TECHNOLOGIES L.L.C.; and
NAGRASTAR L.L.C.,**

Plaintiffs,

Vs.

**ANTHONY (TONY) JAMES HIPPS;
and MICHAEL STROUPE d/b/a/
Digital Innovations, a fictitious name
for an unregistered North Carolina
business,**

Defendants.

ORDER

THIS MATTER is before the court on plaintiffs' Withdrawal of Application for Attorney's Fees (#55). In that notice, plaintiffs request that

[s]hould the court find that it could award some considerably smaller amount of Attorneys fees based on the paperwork already on file in this action, the Plaintiffs would appreciate such a finding.

Withdrawal, Docket Entry #55, at 1.

While this court deplores piracy of protected transmissions – which the court believes to be nothing less than pure theft – the Court is without authority to award even a nominal attorney fee without the prevailing party complying with Grissom v. The Mills Corp., 549 F.3d 313 (4th Cir.2008), and Robinson v. Equifax Information Services, LLC, 560 F.3d 235 (4th Cir. 2009). While the court has little doubt but that the fees charged in this case were reasonable, even a “well reasoned” and extensive

decision by this court would be subject to appellate reversal without the third-party justification of the rates charged. Id. As the copyright laws are applicable to the actions of the defendants, so too are the precedents of the Fourth Circuit applicable to this court, which is without authority to ignore either. The undersigned, respectfully, declines to make any award of attorneys' fees without the required documentation.

Finally, plaintiffs request that the court award its costs prayed for in its motion for fees inasmuch as these costs are not subject to the requirements of Robinson. While this is most accurate, the Clerk of this court is charged by the Board of Judges in the first instance with determination of costs and is most proficient in such awards. The requirements for seeking costs are found in Local Civil Rule 54.1. Plaintiffs may incorporate their previous filings into an appropriate motion under Local Civil Rule 54.1.

ORDER

IT IS, THEREFORE, ORDERED that plaintiffs' Motion for Attorney's Fees and Costs (#49) is **WITHDRAWN**, and the hearing calendared for September 14, 2009, at 3:30 p.m. is **CANCELLED**.

Signed: September 8, 2009



Dennis L. Howell
United States Magistrate Judge

